

State of California
AIR RESOURCES BOARD

**STAFF REPORT: INITIAL STATEMENT OF REASONS FOR
PROPOSED RULEMAKING**

**PROPOSED AB 118 AIR QUALITY IMPROVEMENT PROGRAM
GUIDELINES**

Date of Release: **March 6, 2009**
Scheduled for Consideration: **April 23, 2009**

This report has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

TABLE OF CONTENTS

Executive Summary	i
I. Introduction.....	1
A. Air Quality Improvement Program (AQIP)	1
B. Statutory Requirement for AQIP Guidelines	2
C. Implementation of the AQIP	2
D. Other Air Quality Incentive Programs	4
II. Summary of Proposed Regulation	5
A. Funding Plan	5
B. Project Solicitations	6
C. Project Administration	7
D. Compliance with the AB 118 Air Quality Guidelines.....	7
E. Oversight and Accountability	7
F. Reporting Requirements	8
G. Sustainability	8
III. Development of Proposed Regulation.....	9
IV. Environmental and Economic Impacts.....	10
A. Air Quality Impacts	10
B. Economic Impacts	10
C. Environmental Justice.....	10
V. Alternatives	12
VI. Conclusions and Recommendations.....	13
VII. References	14

Appendix A: Proposed Regulation Order

Appendix B: Enabling Statute for the Air Quality Improvement Program

Executive Summary

In 2007, Governor Schwarzenegger signed into law the *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007* (Assembly Bill (AB) 118, Statutes of 2007, Chapter 750). The Act creates the Air Quality Improvement Program (AQIP), a voluntary incentive program administered by the Air Resources Board (ARB or Board) to fund clean vehicle and equipment projects, research on biofuels production and the air quality impacts of alternative fuels, and workforce training. Statute provides about \$50 million in annual funding for the AQIP through 2015 via increases to the smog abatement, equipment registration, and vessel registration fees collected by the Department of Motor Vehicles.

The AQIP expands California's portfolio of air quality incentives, providing the opportunity to fund projects that do not fit within the statutory framework of existing incentive programs such as the Carl Moyer Air Quality Standards Attainment Program (Carl Moyer Program), Goods Movement Emission Reduction Program, and Lower-Emission School Bus Program. ARB staff proposes to use fiscal year (FY) 2009-10 AQIP funds to help commercialize the next generation of advanced technologies needed to meet California's longer-term, post 2020 State Implementation Plan goals, complementing the existing incentive programs' statutory focus on near-term emission reductions from already commercialized emission control technologies.

Statute requires ARB to develop guidelines to implement the AQIP. The proposed regulation, known as the AQIP Guidelines (or Guidelines), would fulfill this statutory requirement. The proposed Guidelines would define the program's structure and establish minimum administrative and implementation requirements, providing the overarching rules for how ARB will run this new incentive program. The Guidelines are important in ensuring that the program is run efficiently, with transparency and public input. The requirements in these Guidelines apply to the ARB as program administrator and any person that applies for or receives funding under the AQIP.

These regulatory Guidelines will be paired with annual Board-approved funding plans to direct ARB's implementation of the AQIP. The annual funding plan will serve as each year's blueprint for expending the AQIP funds appropriated to the ARB in the annual State budget, establishing ARB's priorities for the funding cycle and describing the projects ARB intends to fund. Whereas the Guidelines establish the overall framework for the program through 2015 and apply to all funding years, the funding plans will be updated each year and include the funding proposals and implementation details specific to each year. Staff's proposed FY 2009-10 Funding Plan will be released on March 20, 2009 and will be considered by the Board alongside these regulatory Guidelines at the April 2009 Board meeting.

After the proposed Guidelines are adopted and the proposed FY 2009-10 Funding Plan is approved by the Board, ARB staff will begin implementing the program by developing and issuing project solicitations.

Summary of Proposal

The major provisions of the proposed AB 118 AQIP Guidelines include:

- Requirements for an annual funding plan to be approved by the Board. The regulation would require that the Funding Plan contain a description of the projects ARB intends to fund with each year's budget appropriation; establish funding targets for each category; and provide justification for these decisions.
- Procedures for developing project solicitations, evaluating projects, and selecting projects. The regulation would require that these solicitations include all the programmatic details potential grantees need to apply for funds and specify the criteria upon which applications will be evaluated and projects selected for funding.
- Program administration requirements.
- Oversight and accountability requirements to ensure the funds are spent in accordance with the requirements of statute and these guidelines.
- Reporting requirements to keep the public, the Board, and the Legislature apprised on progress in implementing the AQIP.

The proposed regulation establishes the robust administrative requirements necessary to ensure the AQIP will be implemented in accordance with statutory provisions. At the same time, the proposed regulation provides sufficient flexibility to allow the program to encourage the development of new, emerging emission control technologies needed to meet California's air quality goals.

I. Introduction

In 2007, Governor Schwarzenegger signed into law the *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007* (Assembly Bill (AB) 118, Statutes of 2007, Chapter 750). The Act creates the Air Quality Improvement Program (AQIP), a voluntary incentive program administered by the Air Resources Board (ARB or Board) to fund clean vehicle and equipment projects to reduce criteria pollutant emissions, research on biofuels production and the air quality impacts of alternative fuels, and workforce training. The AQIP expands California's portfolio of air quality incentives, providing the opportunity to fund projects that do not fit within the statutory framework of existing incentive programs such as the Carl Moyer Program, Goods Movement Emission Reduction Program, and Lower Emission School Bus Program.

Statute requires ARB to develop guidelines to implement the AQIP. Staff's proposed regulation, known as the AQIP Guidelines, would fulfill this requirement. The proposed AQIP Guidelines would define the program's structure and establish minimum administrative and implementation requirements.

The AB 118 statute also creates 2 other new incentive programs: the Alternative and Renewable Fuel and Vehicle Technology Program administered by the California Energy Commission (Energy Commission) to fund alternative and renewable fuels and vehicle technologies to help attain California's climate change policies; and the Enhanced Fleet Modernization Program which expands the Bureau of Automotive Repair's (BAR) voluntary accelerated vehicle retirement (car scrap) program. Staff's proposal does not address either of these programs. Guidelines for these programs are being developed through separate rulemakings.

The remainder of this introductory chapter provides background on the AQIP, the statutory requirement for the proposed AQIP Guidelines, and a brief description of related air quality programs.

A. Air Quality Improvement Program (AQIP)

The AQIP provides about \$50 million in annual funding through 2015 via increases to the smog abatement, equipment registration, and vessel registration fees. The goal of this voluntary incentive program is to fund air quality improvement projects related to fuel and vehicle technologies. These include vehicle and equipment projects which improve air quality, research on biofuels production and the air quality impacts of alternative fuels and advanced technology vehicles, and workforce training. AB 118 lists 8 broad project types which are eligible for AQIP funding:

- On- and off-road equipment projects.
- Projects to mitigate off-road gasoline exhaust and evaporative emissions.
- Research on the air quality impact of alternative fuels.

- University of California research to increase sustainable biofuels production and improve collection of biomass feedstock.
- Lawn and garden equipment replacement.
- Medium- and heavy-duty vehicle/equipment projects including lower emission school buses, electric or hybrid vehicles/equipment, and regional air quality programs in the most impacted parts of California.
- Workforce training related to advanced technology to reduce air pollution.
- Projects to identify and reduce emissions from high-emitting light-duty vehicles.

Statute provides that funding be awarded in the form of competitive grants, revolving loans, loan guarantees, loans, and other appropriate funding measures that further the purposes of the program. Statute also directs ARB to evaluate potential projects based on potential reduction of criteria or toxic air pollutants, cost-effectiveness, contribution to regional air quality improvement, and ability to promote the use of clean alternative fuels and vehicle technologies.

B. Statutory Requirement for AQIP Guidelines

Health and Safety Code (HSC) Section 44274(a)¹ requires that ARB develop guidelines to implement the AQIP:

44274. (a) The Air Quality Improvement Program is hereby created. The program shall be administered by the state board, in consultation with the districts. The state board shall develop guidelines to implement the program. Prior to the adoption of the guidelines, the state board shall hold at least one public hearing. In addition, the state board shall hold at least three public workshops with at least one workshop in northern California, one in the central valley, and one in southern California. The purpose of the program shall be to fund, upon appropriation by the Legislature, air quality improvement projects relating to fuel and vehicle technologies. The primary purpose of the program shall be to fund projects to reduce criteria air pollutants, improve air quality, and provide funding for research to determine and improve the air quality impacts of alternative transportation fuels and vehicles, vessels, and equipment technologies. [Underline added for emphasis.]

The proposed regulation is intended to fulfill this statutory requirement.

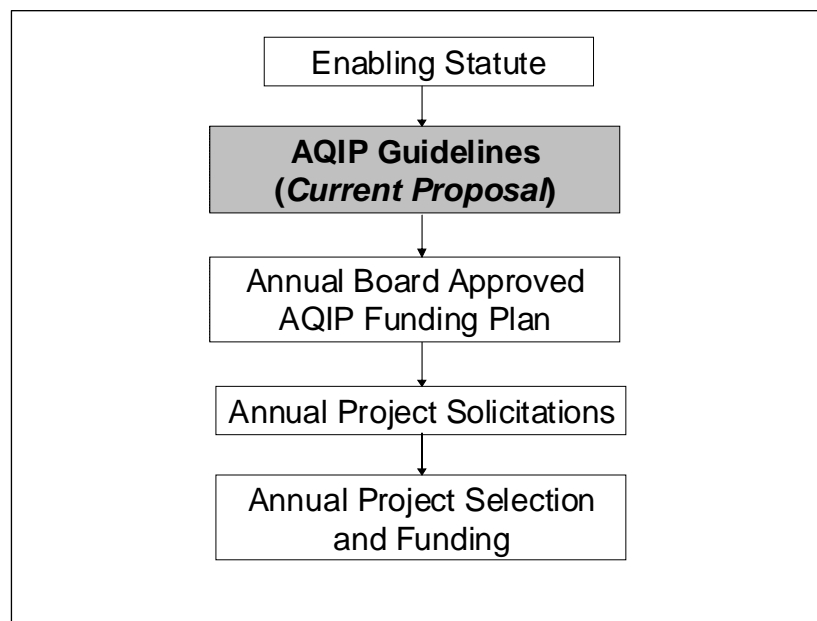
C. Implementation of the AQIP

The proposed AQIP Guidelines are one of the four documents that direct ARB's implementation of the program. Each of these components is described briefly below. An implementation flow chart is shown in Figure 1.

¹ The full text of the enabling statute created by AB 118, and modified by AB 109 (Statutes of 2008, Chapter 313), is provided in Appendix B.

- Enabling Statute (HSC Sections 44270, 44271, and 44274): AB 118 (Statutes of 2007, Chapter 750) creates the AQIP and establishes the overall framework for the program, identifying the program's purpose, statutory limitations, potentially eligible source categories, and funding mechanisms. AB 109 (Statutes of 2008, Chapter 313) refines the requirements established in AB 118, adding the explicit requirement for ARB to develop program guidelines.
- AQIP Guidelines: The proposed AQIP Guidelines further define the policies and procedures for program implementation based on the framework established in statute, setting minimum administrative and implementation requirements.
- Funding Plan: The Funding Plan is each fiscal year's blueprint for expending AQIP funds appropriated to the ARB in each year's State budget. The Funding Plan will describe the projects ARB intends to fund, establish funding targets for each project, and provide the justification for these decisions. The Funding plan will be updated and brought to the Board for its consideration annually and will be developed in accordance with the requirements established in the AQIP Guidelines
- Project Solicitations: ARB will issue project solicitations for each of the projects in the Board-approved Funding Plan. These solicitations will include all the programmatic details potential grantees need to apply for funds. The solicitations will also describe the criteria upon which applications will be evaluated and projects selected for funding. The project solicitations will be developed in accordance with the requirements established in the AQIP Guidelines.

Figure 1: AQIP Development and Implementation Flow Chart



D. Other Air Quality Incentive Programs

The AQIP will complement California's existing portfolio of incentive programs. ARB staff is building upon the experience gained in running these programs as it develops the AQIP. ARB plans to implement the AQIP in a coordinated manner with these programs, focusing AQIP funding in areas that do not already have a significant source of incentive funding. These other programs include the following:

- The Carl Moyer Program, run by ARB and local air districts, provides about \$140 million annually to reduce smog forming and toxic particulate matter emissions primarily from diesel trucks, off-road equipment, agricultural pumps, marine vessels, and locomotives. The program provides grants to encourage the voluntary purchase of cleaner-than-required engines, equipment, and emission reduction technologies. [ARB 2008a] The Carl Moyer Program is supplemented by Department of Motor Vehicle fees which go directly to air districts for clean air programs.
- The Proposition 1B Goods Movement Emission Reduction Program will provide \$1 billion over the next several years to reduce emissions from freight movement through the state's 4 major trade corridors. ARB has awarded the first \$250 million to projects, and is in the process of awarding the second \$250 million installment. About $\frac{3}{4}$ of the \$1 billion will be directed to clean up diesel trucks at the ports and in other freight hauling occupations. The remaining funds are for cleaner locomotives, commercial harborcraft, cargo handling equipment and shore power projects for cargo ships in port. [ARB 2008b]
- The Lower-Emission School Bus Program helps school districts replace or retrofit their oldest buses to reduce toxic diesel pollution and improve safety. The Proposition 1B bond provides \$200 million for the Lower-Emission School Bus Program. [ARB 2008c]
- AB 118 provides about \$30 million a year to expand BAR's car scrap program, creating the Enhanced Fleet Modernization Program. This program will complement BAR's Consumer Assistance Program and will help meet a commitment in the 2007 State Implementation Plan to reduce smog forming emissions from passenger cars and light-trucks via voluntary vehicle retirement.
- The Alternative and Renewable Fuel and Vehicle Technology Program, created by AB 118, provides up to \$120 million annually to the Energy Commission for alternative and renewable fuels, fueling infrastructure, clean vehicles, and workforce training to help meet California's climate change goals. Although the Energy Commission program focuses on greenhouse gas reductions and the AQIP focuses on criteria pollutant and toxics reductions, there is potential overlap because some clean vehicle technologies achieve both greenhouse gas and criteria pollutant reductions. [CEC 2008] ARB staff and Energy Commission staff are coordinating on project categories where potential overlap exists.

II. Summary of Proposed Regulation

This chapter summarizes the proposed AQIP Guidelines. The purpose of the proposed regulation is to fulfill the requirements of HSC Section 44274(a) which directs ARB to develop guidelines to implement the AQIP. The proposed regulation would define the program's structure and establish minimum administrative and implementation requirements. The requirements of the proposed regulation apply to the ARB in its role as program administrator and any person that applies for or receives funding under the AQIP.

This chapter describes the major provisions of the proposed regulation, including:

- Requirements for an annual funding plan;
- Procedures for developing project solicitations and selecting projects;
- Program administration requirements;
- Requirements for compliance with the AB 118 Air Quality Guidelines adopted in September 2008;
- Oversight and accountability requirements; and
- Reporting requirements.

The full text of the proposed regulation is presented in Appendix A.

A. Funding Plan (Section 2353)

To implement the AQIP, the proposed regulation would require ARB to develop a funding plan each year that describes the projects it intends to fund with that year's budget appropriation. This Funding Plan would communicate to the public, potential grantees, and other interested stakeholders ARB's plans for each year's AQIP funding. The proposed regulation would require that the Funding Plan be developed through a public process with Board approval of the proposed plan. The Funding Plan would include:

- A description of the AQIP projects that ARB plans to fund and the proposed funding target for each project. Examples of potential projects (from staff's draft fiscal year (FY) 2009-10 Funding Plan concepts) include: incentives for the purchase of new medium- and heavy-duty hybrid trucks, incentives for the purchase of new zero-emission and plug-in hybrid light-duty vehicles, and incentives for the purchase of zero-emission lawn and garden equipment, among others.
- The policy and technical justification for the proposed projects and funding targets.
- Provisions to ensure that projects meet the requirements of HSC Section 44271(c) which states that the AQIP cannot fund projects required under state or

federal law, district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents.

The Funding Plan also may include a contingency plan for expenditure of AQIP funds if demand for funding does not reach the Board-approved funding targets due to unforeseen circumstances. Such contingencies are important in voluntary incentive programs where it is not possible to fully anticipate participation levels in advance.

The specific Funding Plan components (eligible projects, funding targets, justification, and surplus emission reductions) are necessary to provide potential program applicants a clear understanding of ARB's plans and priorities for each funding cycle. Potential applicants need this information in order to prepare the applications for the competitive grants and other funding authorized in HSC Section 44274(c). By developing the Funding Plan in an open, public process, ARB provides the public, potential applicants, and other interested stakeholders an opportunity to help shape ARB's funding priorities.

B. Project Solicitations (Section 2354)

Once the annual Funding Plan is approved by the Board and AQIP funds are appropriated to ARB in the State budget, ARB staff would develop project solicitations. The proposed regulation establishes the requirements and procedures for these project solicitations. In order to ensure that ARB spends each fiscal year's appropriation expeditiously, the proposed regulation would require that ARB start issuing solicitations no later than 90 days after each fiscal year's funds are appropriated in the State budget if the Board has approved the Funding Plan.

The proposed regulation would define the elements that must be included in each project solicitation, including:

- A description of project eligibility and administration requirements;
- Application requirements and deadlines;
- Criteria upon which applications will be evaluated and projects selected for funding; and
- Match funding requirements, if applicable.

In short, the solicitations would describe all the information a potential applicant would need in order to fill out an application and have a clear understanding about the criteria ARB will used to evaluate that application.

The proposed Guidelines also establish project solicitation and selection procedures specific to projects that are funded using revolving loans, loan guarantees, or loans as the funding mechanism.

HSC Section 44274(c) requires that AQIP provide funding via competitive grants, revolving loans, loan guarantees, loans, and other appropriate funding measures. HSC Section 44274(b) establishes how potential AQIP projects will be evaluated. The

proposed provisions are necessary to clarify these sections of statute. The specific provisions (project criteria, project evaluation requirements, application and project evaluation deadlines, match funding, and project administration) are necessary to provide potential program applicants a clear understanding of how ARB will solicit and evaluate projects. Potential applicants need this information in order to prepare the applications for the competitive grants and other authorized funding. The provisions for project evaluation are consistent with standard State procedures for evaluating competitive solicitations.

C. Program Administration (Section 2355)

The proposed regulation would establish ARB's responsibilities for overall administration of the AQIP, including development of the Guidelines, development of the annual Funding Plan, development of annual project solicitations, program oversight responsibilities, and administration responsibilities. As the program administrator, ARB is responsible for setting minimum administration and implementation requirements for each project. These may include reporting milestones, outreach expectations, auditing and oversight protocols, conflict-of-interest requirements, progress and tracking on disbursement of funds, and other requirements. This is necessary to provide clarification and greater detail on ARB's role and responsibilities as AQIP administrator, which is established in HSC Section 44274(a).

D. Compliance with the AB 118 Air Quality Guidelines (Section 2356)

HSC Section 44271(b) requires ARB to develop guidelines which ensure that the AQIP and Alternative and Renewable Fuel and Vehicle Technology Program complement, and do not interfere with, California's existing air quality programs. The Board adopted AB 118 Air Quality Guidelines in September 2008 to address this requirement. [ARB 2008d] The proposed regulation would require that all potential projects be screened for compliance with the AB 118 Air Quality Guidelines prior to being selected for funding. This requirement is necessary to ensure that the provisions of HSC Section 44271(b) are met.

E. Oversight and Accountability (Section 2357)

The proposed regulation would require ARB or its designees to conduct program or fiscal audits of AQIP administration and implementation in order to ensure funds are spent in accordance with the requirements of statute and these guidelines. It would also require that project administrators and grantees provide ARB or any authorized designee appropriate access to conduct these program and fiscal audits or other evaluations.

Through its administration of the Carl Moyer Program and the Lower-Emission School Bus Program, ARB has found that program monitoring and auditing are essential to ensure that incentive programs are run in accordance with statutory requirements and that State funds are spent efficiently. In its 2007 audit of the Carl Moyer Program, the

Bureau of State Audits commented on the importance of such oversight with the following recommendation, “To ensure that local air districts administer the Moyer Program according to state law and Moyer Program guidelines, the state board should ensure that it audits a sufficient number of districts each year.” [BSA 2007]

The proposed provisions relating to oversight and accountability are both necessary and appropriate to ensure the program is implemented as intended in State law and are based on ARB’s experience administering air quality incentive programs.

F. Reporting Requirements (Section 2358)

The proposed regulation would require ARB staff to report to the Board on its progress in implementing the AQIP, starting in 2010 and biennially thereafter. The report would include a list of funded projects, emission benefits, and recommendations to the Board and/or the Legislature for program improvements, if necessary.

The reporting requirements are necessary to fulfill the HSC Section 44274(d) requirement for a biennial AQIP report to the Legislature and would also serve to keep the public informed about program implementation. The required elements for the report in the proposed regulation match the report requirements specified in HSC Section 44274(d).

G. Sustainability

HSC Section 44271(a)(1) requires the ARB to “establish sustainability goals to ensure that alternative and renewable fuel and vehicle deployment projects, on a full fuel-cycle assessment basis, will not adversely impact natural resources, especially state and federal lands.” ARB is addressing sustainability in alternative and renewable fuel production, distribution, and use as part of the low carbon fuel standard (LCFS) regulation, being developed concurrently with the AQIP Guidelines and scheduled to be considered by the Board in April 2009. The proposed LCFS regulation requires that the emissions of a fuel be evaluated on a full fuel cycle basis – including an evaluation of land use impacts –to ensure fuels’ sustainability. [ARB 2009]

As a sustainability goal for the AQIP, ARB is requiring that any alternative or renewable fuel vehicle and equipment projects funded under the AQIP be consistent with provisions in the LCFS regulations. This requirement is already established as part of the AB 118 Air Quality Guidelines adopted by the Board in September 2008. Thus, no additional regulatory requirements are necessary. Specifically, the AB 118 Air Quality Guidelines require that any potential project in which an alternative or renewable fueled vehicle/equipment is replacing conventionally fueled vehicle/equipment must be evaluated on a full fuel cycle basis using the analytical tools of the LCFS. Only projects with emissions less than or equal to those of baseline vehicle/equipment are eligible for potential AQIP funding. As noted in section D above, these proposed AQIP Guidelines require compliance with the AB 118 Air Quality Guidelines.

III. Development of Proposed Regulation

This section describes public outreach conducted by ARB staff during development of the proposed regulation. ARB staff conducted four sets of public workshops to present proposals and solicit public input. All of the Sacramento workshops were webcast to increase participation.

- The first public workshop, held on April 2, 2008, was a kick-off workshop in Sacramento on the overall implementation of AB 118, held jointly by the ARB and the Energy Commission. At this workshop, ARB staff provided background information on the AQIP, goals for the AQIP guidelines, key questions to be addressed, and a schedule for guideline development.
- The second public workshop was held on August 19, 2008 in Sacramento to discuss potential AQIP guiding principles, funding priorities, and solicitation mechanisms.
- The third set of public workshops were held on November 5 and 6, 2008 in Diamond Bar and Sacramento, respectively. At these workshops, staff presented preliminary draft AQIP Guidelines and initial funding ideas for the FY 2009-10 Funding Plan.
- The fourth set of public workshops were held on February 4 and 5, 2009 in Sacramento and Fresno, respectively. Staff presented draft regulatory language for the AQIP Guidelines and funding ideas for the FY 2009-10 Funding Plan.

Notice of the first public workshop was sent to electronic list serves for the AQIP and the Energy Commission's alternative fuels program as well as 13 additional ARB list serves to reach a broad audience. Notice of the subsequent workshops was sent to the AQIP list serve and the general ARB mobile source mailings list serve. ARB also posted notice of the workshops on its AB 118 webpage and the ARB events calendar webpage.

By holding workshops in Diamond Bar and Fresno in addition to the Sacramento workshops, ARB fulfilled the requirements of HSC Section 44274(a) which specify, in part, that "the state board shall hold at least three public workshops with at least one workshop in northern California, one in the central valley, and one in southern California."

In addition to the public workshops, ARB staff consulted with local air districts to solicit their input and gain their insights on the development of the AQIP. This included meetings with various California Air Pollution Control Officers Association committees, the ARB-District Incentive Program Implementation Team, and individual air districts.

Staff also met with interested stakeholders such as environmental groups and project/technology proponents among others to discuss issues and concerns regarding AQIP development.

IV. Environmental and Economic Impacts

A. Air Quality Impacts

The purpose of the AQIP is to fund air quality improvement projects. Implementation of the AQIP will reduce emissions of criteria pollutants, air toxics, and greenhouse gases both directly and indirectly. Eligible projects include clean vehicle and equipment projects which directly reduce emissions. These projects will be evaluated and selected in part based on their potential for reducing emissions. Statute also allows a number of projects categories which indirectly help to improve air quality by helping California develop and deploy the next generation of the clean fuel and vehicle programs which most effectively reduce air pollution. These include research on the air quality impacts of alternative fuels, research to increase biofuels production, and workforce training relating to advanced technologies designed to reduce air pollution.

The exact emission reductions achieved through implementation of the AQIP will depend on the mix of projects funded each year. In each year's proposed Funding Plan, staff will include an assessment of the air quality benefits of projects proposed for funding. The proposed regulation also requires a biennial report to the Board, the Legislature, and the public on the emission reductions achieved through the AQIP, so the air quality impacts will be tracked as the program is implemented.

B. Economic Impacts

The AQIP is a voluntary program to provide grants or other funding for clean vehicles and equipment, research, and advanced technology workforce training. As this is a strictly voluntary program and no one is mandated to participate, the proposed regulation does not impose an economic cost on businesses. There would be an economic benefit to those businesses or other entities that voluntarily choose to participate in the AQIP and receive incentive funding to purchase clean vehicles or equipment. ARB will incur costs to implement the AQIP. Those costs are included in ARB's budget.

C. Environmental Justice

The ARB is committed to ensuring the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. In 2001, the Board approved the *Policies and Actions for Environmental Justice*, which formally established a framework for incorporating environmental justice into the ARB's programs, consistent with the directives of State law. [ARB 2001]

Staff's proposal is consistent with these policies. The proposed regulation establishes the framework and administrative requirement for implementing the voluntary AQIP aimed at reducing emissions from mobile sources. The clean engine and vehicle projects funded through this program will reduce emissions throughout California,

including those communities with environmental justice concerns. Some projects may achieve emission reductions focused in local communities. The annual Funding Plan, required by this proposed regulation, would provide the specific details on the projects ARB is proposing to fund each year, including an assessment of the projects' air quality benefits. Where applicable, the Funding Plan would discuss which projects have focused benefits in local communities.

V. Alternatives

Statute requires that ARB develop guidelines for implementing the AQIP but is not prescriptive on the structure or format of the guidelines. Staff chose to structure the guidelines to provide the general framework of the program, establishing the requirements for an annual funding plan, project solicitations, program administration, and the criteria ARB will use to evaluate and select projects. Under staff's proposal, the more specific implementation details would be described in the Board-approved funding plans and project solicitations prepared each year in accordance with the rules and procedures set forth in these regulations. This approach provides the flexibility needed for the program to accommodate an evolving set of potential projects and for ARB to spend the funds appropriated by the Legislature in a timely manner.

Staff has considered one alternative to this approach. Staff considered developing more detailed guidelines in which all specific administration, solicitation, and implementation details for each potentially fundable project would be established in regulation – similar to the Carl Moyer Program Guidelines. However, staff concluded that this approach is not practical given the broad universe of potentially fundable projects categories authorized for the AQIP. Statute allows the AQIP to fund a wide variety of potential vehicle and equipment incentives, as well as advanced technology demonstration projects, research projects, and workforce training. The Carl Moyer Program Guidelines, on the other hand, apply to a relatively defined set of potential projects.

Establishing a full list of potential AQIP projects in advance is infeasible, and limiting the program to a subset of eligible projects set in regulation would unnecessarily narrow its scope potentially hampering efforts to encourage emerging technologies needed to meet California's air quality challenges. Guidelines which focus on the general framework for the program provide the AQIP with the flexibility needed to target promising projects and advanced technologies in future funding years. Staff does not want to limit ARB's ability to fund these emerging technologies, and updating the regulation each time a new technology or project type became viable would make it impractical to implement the program effectively and efficiently.

VI. Conclusions and Recommendations

Staff's proposed AQIP Guidelines would fulfill the requirements of HSC section 44274(a) which directs ARB to develop guidelines for implementing the AQIP. The proposed regulation establishes robust administrative requirements to ensure the AQIP will be implemented in accordance with statutory provisions. At the same time, the proposed regulation provides sufficient flexibility to allow the program to encourage the development of emerging emission control technologies. Staff recommends the Board adopt the proposed regulation.

VII. References

- ARB 2001: Air Resources Board. Policies and Actions for Environmental Justice. December 13, 2001. <http://www.arb.ca.gov/ch/programs/ej/ejpolicies.pdf>
- ARB 2007: Air Resources Board. Staff Report on the Proposed Allocations of \$25 Million for the Alternative Fuel Incentive Program. Release Date: May 15, 2007. http://www.arb.ca.gov/fuels/altfuels/incentives/052407altfuel_sr.pdf
- ARB 2008a: Air Resources Board. The Carl Moyer Program Guidelines: Approved Revision 2008, Release Date: April 22, 2008. <http://www.arb.ca.gov/msprog/moyer/guidelines/current.htm>
- ARB 2008b: Air Resources Board. Lower-Emission School Bus Program 2008 Guidelines. April 15, 2008. <http://arb.ca.gov/bonds/schoolbus/guidelines/2008lesbp.pdf>
- ARB 2008c: Air Resources Board. Proposition 1B: Goods Movement Emission Reduction Program Final Guidelines for Implementation, Adopted February 28, 2008. http://www.arb.ca.gov/bonds/gmbond/docs/final_guidelines_clean_vers_3-10-08.pdf
- ARB 2008d: Air Resources Board. Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Proposed AB 118 Air Quality Guidelines for the Air Quality Improvement Program and the Alternative and Renewable Fuel and Vehicle Technology Program, Released August 8, 2008. <http://www.arb.ca.gov/regact/2008/aqipfuels08/aqipISOR.pdf>
- ARB 2009: Air Resources Board. Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Proposed Regulation to Implement the Low Carbon Fuel Standard, Released March 6, 2009.
- BSA 2007: Bureau of State Audits. The Carl Moyer Memorial Air Quality Standards Attainment Program: Improved Practices in Applicant Selection, Contracting, and Marketing Could Lead to More Cost-Effective Emission Reductions and Enhanced Operations, Report 2006-115, June 2007. <http://www.bsa.ca.gov/pdfs/reports/2006-115.pdf>
- CEC 2008: California Energy Commission. Investment Plan for the Alternative and Renewable Fuel and Vehicle Technology Program, Draft Staff Paper. Publication # CEC-600-2008-007-D-REV1, December 2008. <http://www.energy.ca.gov/2008publications/CEC-600-2008-007/CEC-600-2008-007-D-REV1.PDF>